आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad

Before Shri Laliet Kumar, Judicial Member
And
Shri Madhusudan Sawdia, Accountant Member

आ.अपी.सं /**ITA No. 506/Hyd/2023**
(निर्धारण वर्ष/Assessment Year: 2016-17)

Smt. Kavitha Harish Raney Hyderabad PAN:ACBPR3983L	Vs.	Income Tax Officer Ward 7(3) Hyderabad
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Shri Pawan Kumar Chakrapani, CA	
राजस्व द्वारा/Revenue by::	Shri Shakeer Ahmed, DR	
सुनवाई की तारीख/Date of hearing:	01/05/2024	
घोषणा की तारीख/Pronouncement:	07/05/2024	

आदेश/ORDER

Per Laliet Kumar, JM.

This appeal filed by the assessee is directed against the order dated 1/9/2023 of the learned CIT (A) NFAC Delhi, relating to A.Y.2016-17.

2. Facts of the case, in brief, are that the assessee is a Resident Individual, deriving income from business and profession and has filed her Return of Income for the Assessment

Year 2016-17 on 14.11.2017 by admitting Gross Total Income of Rs. 6,04,857/-. The case of the assessee was selected for limited scrutiny under CASS due to the following reasons:-

1. Whether value of exports and imports has been correctly shown in Return of Income.
2. Whether customs duty paid is correctly shown in Return of Income.
3. Whether outward foreign remittance is from disclosed sources and appropriate withholding and reporting obligations have been complied with.

3. Thereafter, the Assessing Officer issued statutory notices u/s 143(2) and 142(1) of the I.T. Act in response to which the AR of the assessee appeared before the Assessing Officer and furnished the requisite details.

4. On perusal of the information/documents submitted by the assessee, the Assessing Officer noted that the assessee had revised the Return of Income for the A.Y. 2016-17 on 14.11.2017 only after receiving the Notice U/s. 143(2) of the I.T. Act, 1961 issued on 23.10.2017, whereas the original Return of Income was

filed on 29.10.2016. The reason of revising the Return of Income for the A.Y. 2016-17 stated by the assessee was that "the Assessee had approached one manager to look after the Business Activities of M/s. Shruti Impex, and due to blind faith in the manager, he has tried to conceal the details of business, and delayed to submit the same, we have also filed a case against him for causing business losses, mis-appropriation of funds". The Assessing Officer was of the opinion that the reason stated by the assessee for revising the Return of Income is baseless and lacking evidence, since, no documentary evidence was produced by the assessee in respect of the case filed against the Manager. The Assessing Officer further noted that in the original ROI filed the assessee admitted total sale at Rs. 1,14,33,538/- whereas in the revised ROI filed after receiving Notice U/s. 143(2) of the I.T. Act, 1961 the assessee admitted total sales at Rs. 6,90,47,683/- the difference comes out to be of Rs. 5,76,14,145/-. Such a huge difference in sales of goods is unexplainable in any circumstances. This huge difference of sale itself is self-explanatory that the assessee willfully conceal the particulars of

the income and just to avoid the penal consequences the assessee is blaming a 3rd person for the same.

5. The Assessing Officer further noted that in original Return of Income the assessee has shown Rs. 28,81,694.42/- as Capital and Rs. 81.90,891/- as Trade Creditors whereas in revised Return of Income the assessee raised Capital to Rs. 30,12,244/- from Rs. 28,81,694.42/- and Trade Creditors to Rs. 1,31,18,402/- from Rs. 81.90,891/-. This difference is also questionable and the assessee offered no legitimate explanation of the difference. Also, no confirmation is submitted by the assessee in respect of the Trade Creditors, mere mentioning in balance sheet is not sufficient enough to prove the credit worthiness of the Trade Creditors. It is further noted that in revised balance sheet the assessee mentioned 2 other creditors named as Shruthi H. Raney and Shreya H. Raney, the assessee failed to prove the credit worthiness of the same. Since the no confirmation from the trade creditors is available on record therefore amount paid in lieu of the Imports made is questionable, though the assessee used banking channels to remit the amount but the same cannot be

treated as authentic without the documentary evidence. In view of the aforestated facts of the case of the assessee, the submissions made by the assessee is nothing but botched up documents which are intentionally created to avoid tax implications and the assessee has failed to produce genuine documents in respect of the issues raised of which the assessee is well aware since the issuance of Notice U/s. 143(2) of the I.T. Act, 1961 on 23.10.2018. Furthermore, it is pertinent to mention here that it took more than 1 year by the assessee to get to know about the financial status of her own business and only after receiving the Statutory Notice U/s. 143(2) of the I.T. Act, 1961 issued on 23.10.2017, the assessee chose to revise the return.

6. The Assessing Officer further noticed from the Form 15CA submitted by the assessee that the assessee had remitted an amount to the tune of Rs. 38,20,690/- towards “purchase of granules”. As per the form 15CA the remittance is covered U/s. 195 of the I.T. Act, 1961 and no TDS had been deducted by the assessee. Also, the assessee has not submitted any explanation regarding the non-deduction of the TDS on remittance of the

amount to Saudi Arabia. Also, the assessee has not offered any explanation towards the nature of material of the purchase and whether the said purchase is for business purpose or not. In view of the above discussions the following things comes into light first whether the purchase made by the assessee is liable for TDS or not and secondly whether the said purchase of granules is for business purpose or not. However, as per the information available on record the assessee had made import to the tune of Rs. 1,54,80,245/- whereas in the submissions the assessee offered insufficient explanation only to the tune of Rs. 38,20,690/- as discussed above. Furthermore, in the revised Return of Income as well as in Original Return of Income no TDS has been deducted by the assessee on account of the remittance made in lieu of the import made during the Financial Year 2015-16. Thus, the entire remittance made by the assessee in lieu of the total import made to the tune of Rs. 1,54,80,245/- remains un-explained even after it is explicitly asked in the show cause dated: 21.12.2018. Since the assessee has not offered any explanation about the source of such huge investment towards the imports made during the Financial Year 2015-16 even asked

repeatedly via Statutory Notices mentioned above. Thus, in view of the same an amount of Rs. 1,54,80,245/- is added in the total income as un-explained investment from undisclosed sources. Also, it noticed that as per the Audited P&L A/c the total expenditure claimed by the assessee w.r.t. Custom Duty paid is Rs, 33,36,103/- which was not present in original Return of Income. However, as per the information available the assessee had paid an amount to the tune of Rs. 41,78,555/-, the source of which is even asked explicitly in show-cause dated: 21.12.2018. But the assessee has failed to offer any explanation regarding the source of such payment of custom duty. Therefore, the entire amount to the tune of Rs. 41,78,555/- is hereby added in the total income of the assessee as un-explained expenditure for the A.Y. 2016-17.

7. Thus, the Assessing Officer rejected plea raised by the assessee and made addition of Rs. 1,96,58,800 /-.

8. In appeal, the learned CIT (A) upheld the action of the Assessing Officer by observing as under:

5.8 In order to verify the claim of the appellant amount of Rs. 1,96,58,800/- issued remand report dated 04/08/2023 as under:-

i. Is it a limited scrutiny?

ii. Whether converted to complete scrutiny?

iii. Was permission for the same taken from the competent authority?

Further, the appellant has replied of remand report dated 07/08/2023 as under:-

S.No.	*Issues*	*Comments on the issue*
1	*Is it a limited scrutiny?*	*Yes, it is a Limited Scrutiny under CASS (Computer Aided Scrutiny Selection)*
2	*Whether converted to complete scrutiny?*	*No.*
3	*Was permission for the same taken from the competent authority?*	*Not applicable.*

As per para-1 (Page-1) of the assessment order the AO took up the case for limited scrutiny for verifying the following issues:

i) Whether value of exports and imports has been correctly shown.

ii) Whether customs duty paid is correctly shown.

iii) Whether outward foreign remittance is from disclosed sources and

appropriate withholding and reporting obligations have been complied with.

Hence, the verification of correct value of exports imports the customs duties paid was very much a part of the limited scrutiny reasons. Thus, the verification of sources for duties paid was well within the preview of the limited scrutiny. Ground no. 3 is accordingly dismissed.

6. In the result, appeal is **Dismissed.**

9. Aggrieved with such order of the learned CIT (A) the assessee is in appeal before the Tribunal.

10. The learned AR for the assessee submitted that the two issues which were flagged of by the Assessing Officer was:

i) That the assessee was not able to explain the source of the investment for a sum of Rs.1,54,00,000/-.

ii) Further, the assessee was not able to establish whether the imports made by the assessee for an amount of Rs.38.20 lakhs forming part of Rs.1.54 crores was made for the business purposes without deducting the TDS, as contemplated u/s 195 of the I.T. Act.

11. It was the submission of the learned AR that the learned CIT (A) NFAC has not discussed and deliberated these two

issues on which the additions were made by the Assessing Officer. It was submitted that during the assessement proceedings and appellate proceedings, the assessee had filed the documents/evidences showing the source of investment and also demonstrated that the import was carried out for the purpose of business for which there is no provision for deduction of TDS. It was the submission that the order passed by the learned CIT (A) NFAC is very cryptic, non-speaking and mechanical order and therefore, the matter is required to be set aside to the file of the learned CIT (A) NFAC.

12. The learned DR has no objection, if the matter is remanded back to the file of the learned CIT (A) NFAC.

13. We have heard the rival arguments made by both the sides and perused the orders of the AO and the learned CIT (A). We find merit in the argument of the learned AR that the learned CIT (A) NFAC has not adjudicated the issues pointed out by the learned AR in a proper way as per fact and law. In fact the Cit (A) had not made any comment/adjudication on any of these two

above referred grounds. We therefore, are of the considered opinion that the learned CIT (A) NFAC may re-adjudicate the issue afresh after affording reasonable opportunity of being heard to the assessee.

13. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 7th May, 2024.

Sd/-	Sd/-
MADHUSUDAN SAWDIA (ACCOUNTANT MEMBER)	**(LALIET KUMAR) JUDICIAL MEMBER**

Hyderabad, dated 7th May, 2024
Vinodan/sps

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3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order